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EXAMINER

YABUT, DANIEL D

ART UNIT

PAPER NUMBER

3656

MAIL DATE

DELIVERY MODE

05/20/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/589,817

**Applicant(s)**VERSEY, ROBERT JOSEPH  
MONTAGUE**Examiner**

DANIEL YABUT

**Art Unit**

3656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2011.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 101-108 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 101-108 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 17 March 2011 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because exploded views (i.e. Fig. 5) including separated parts should be embraced by a bracket in order to indicate the relationship or order of assembly of the various parts are permissible in accordance with 37 CFR 1.84(h)(1).

The drawings are objected to because every line must be durable, clean, black, sufficiently dense and dark, and uniformly thick and well-defined in accordance with 37 CFR 1.84(h)(1). All drawings must be made by a process which will give them satisfactory reproduction characteristics.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The term “support member” in claim 1 lacks the proper antecedent basis in the specification.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 106 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The functional limitation “*and releases the handlebar portions when the rider removes their body parts from the support members*” in claim 106 is indefinite since claim 1 does not recite the particular structure that accomplishes the function. Please see *Supplementary Examination Guidelines for Determining Compliance With 35 U.S.C. 112 and for Treatment of Related Issues in Patent Applications*, 76 FR 7162 (Feb. 9, 2011) and MPEP 2173.05(g).

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 101-108, as best understood, are rejected under 35 U.S.C. 102(a) as being anticipated by Nielsen (US PG Publication 2003/0089191 A1).

Nielsen discloses a steering apparatus for control of a vehicle (Fig. 1) comprising a(n):

*Re claim 101*

- Two handlebar portions (14A, 14B) which are independently transferable (para. [0037], ll. 24-28) between at least two positions (see positions in Fig. 1-2)
- Handlebar portions comprise at least one resilience means (126) which is in an extended/loaded configuration when the handlebars are in the second position para. [0037], ll. 16-19)
- Two support members (portions along 12A, 14A and 12B, 14B, respectively), one associated with each handlebar portion
- Each support member is configured so that pressure applied by a rider's body part to the respective support member activates an actuator for the transfer of the respective handlebar portion between the second position and the first position (para. [0037], ll. 24-31)
- Steering apparatus includes a releasable locking means (114, 64, 62) which engage the handlebar portions when in the second position, and release the handlebar portions when the actuator is activated (para. [0037], ll. 22-31)

*Re claim 102*

- Second position is a base position (Fig. 1)

*Re claim 103*

- First position is an aero position (Fig. 2)

*Re claim 104*

- Each handlebar independently pivots around a central point (38)

*Re claim 105*

- Resilience means is a spring (126).

*Re claim 106*

- Releasable locking means which engages the handlebar portions when in the first position, and releases the handlebar portions when the rider removes their body parts from the arm rests (para. [0037] / ll. 22-31).

*Re claim 107*

- Vehicle is a bicycle (para. [0027])

*Re claim 108*

- Vehicle including a steering apparatus as claimed in claims 101 (para. [0027])

***Response to Arguments***

Applicant's arguments filed 3/17/2011 have been fully considered but they are not persuasive.

Applicant argues that Nielson does not teach independently adjustable handlebars. In response, the limitations of claim 101 do not set forth the definition or structural conditions for the term "independently" such that Nielson would be precluded from meeting the claim limitation. It is noted that the features upon which applicant relies (i.e., handlebars not moved in unison, a separate locking means for each side) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The term "independently" is sufficiently broad as to encompass the claim interpretation that each handlebar portion can directly be manipulated freely between a first position and second position. In other words, albeit the handlebars move in unison, each handlebar does not depend upon an external element to allow free movement during the transition between a first position and a second position, for example. Given the broadest reasonable interpretation of the claim limitation, it is maintained that the claimed invention does not distinguish over the cited art of record.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL YABUT whose telephone number is (571)270-5526. The examiner can normally be reached on Monday through Friday from 9:00 A.M. to 5:00 P.M. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard W. Ridley can be reached on (571)272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL YABUT/  
Examiner, Art Unit 3656  
5/18/2011

/RICHARD WL RIDLEY/  
Supervisory Patent Examiner, Art Unit 3656



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